



Office of the Independent Police Auditor

City of San José

AUGUST 1998

<http://www.ci.san-jose.ca.us/ipa/home.html>

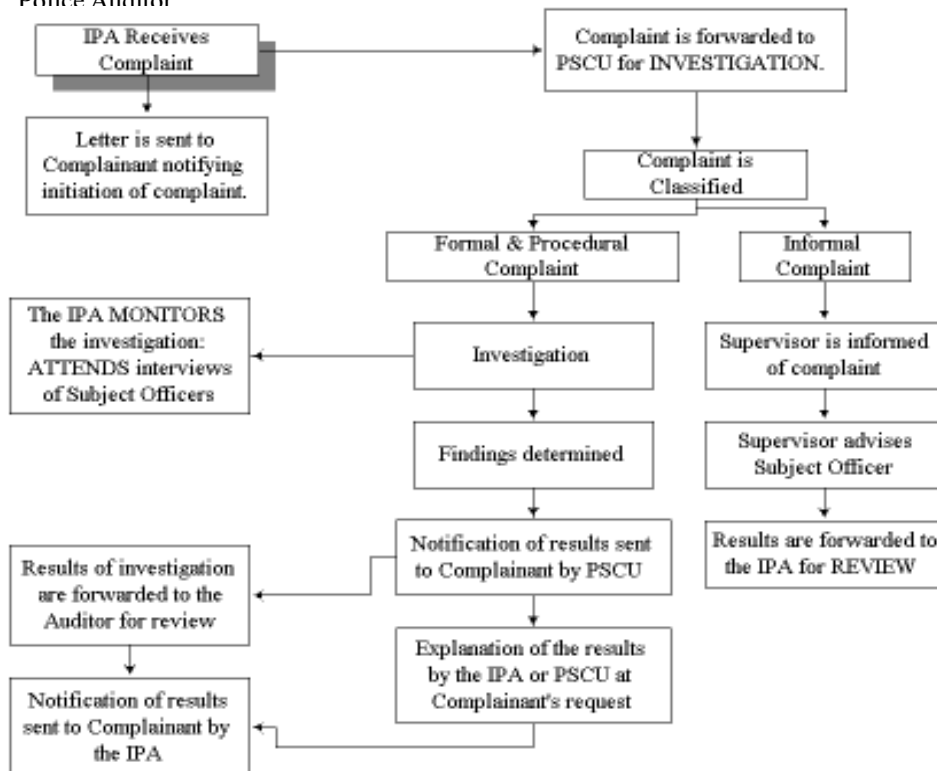
VOLUME 6

In an effort to better inform San José residents of their right to file a complaint, the IPA's office continually attempts to educate the public about the complaint process and the availability of the IPA. The IPA, along with SJPD personnel, has made numerous presentations at community group and organization meetings. The presentations give a basic overview of the complaint process and allow the public the opportunity to raise questions or concerns about police issues and filing a complaint. The auditor has also given interviews to local and national media regarding police issues, police complaints and the role of the IPA. Other inquiries have been made by both local and out of state sources. In addition, the IPA distributes informative pamphlets which include information about the IPA office and a form used to initiate a complaint. Information about the IPA and the complaint process can also be accessed on the internet at <http://www.ci.san-jose.ca.us/ipa/home.html>.



What happens to a complaint filed at the IPA?

The following flow chart describes the process that is involved once a complaint against a member of the San José Police Department is filed at the Office of the Independent Police Auditor



Bulletin

- Civilian Initiated complaints drop by 30%.
- San José Police Department changes policy for the forcible drawing of blood^(page 3).
- IPA received 45% of total complaints filed.

Are you interested in a Presentation regarding the IPA or the Complaint Process? Contact us at 408.977.0652

MID YEAR STATISTICS

ANALYSIS OF COMPLAINTS RECEIVED

January 1 through June 30, 1998

Classified complaints account for 178 of the 208 complaints received between January 1 through June 30, 1998. The remaining 30 In-process complaints were awaiting classification as of June 30, 1998. Of those 178 complaints, 111 were closed between January 1 through June 30, 1998. The IPA received 45% of the total complaints filed during this reporting period. Data was rounded off to the nearest percentage.

SUSTAINED CASES

Of the 111 closed cases, only 38 Formal cases were of the type where the officer involved could have been disciplined. A finding was reached in 21 cases, of which three complaints were sustained. The other 13 cases were omitted from the illustration below because the cases involved non-sworn officers of the SJPd or because the investigations resulted in a No Finding.

Council Districts	Closed Formal Cases		Sustained Formal Cases	
	CI	DI	CI	DI
1 JOHNSON	1	0	0	0
2 POWERS	0	0	0	0
3 PANDORI	8	0	0	0
4 FERNANDES	0	0	0	0
5 DIAZ	1	0	0	0
6 FISCALINI	2	1	0	1
7 SHIRAKAWA, JR.	3	0	0	0
8 WOODY	1	1	0	1
9 DIQUISTO	0	0	0	0
10 DANDO	0	0	0	0
Unknown/Outside City Limits	1	2	1	0
Total Cases	17	4	1	2

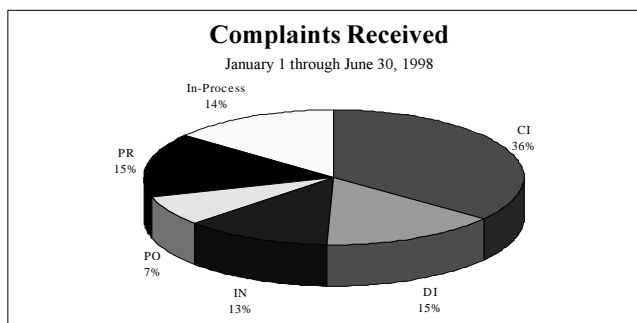
DISCIPLINE IMPOSED

In the 21 complaints that resulted in a finding, a discipline was imposed on five complaints. The disciplines are listed by increasing level of severity.

Type of Disciplines Imposed	Formal CI	Formal DI	Total	%
Training and/or Counseling	1	1	2	40%
Documented Oral Counseling (D.O.C.)	0	1	1	20%
20-Hour Suspension	1	1	2	40%
Total	2	3	5	100%

Council Districts	Formal		IN	PO	PR	Total Complaints	%
	CI	DI					
1 JOHNSON	6	0	0	0	2	8	4%
2 POWERS	3	1	2	1	1	8	4%
3 PANDORI	29	10	12	9	10	70	39%
4 FERNANDES	5	1	1	1	4	12	7%
5 DIAZ	10	1	3	0	3	17	10%
6 FISCALINI	5	3	0	2	3	13	7%
7 SHIRAKAWA, JR.	5	1	4	0	3	13	7%
8 WOODY	6	4	1	1	2	14	8%
9 DIQUISTO	2	0	2	1	1	6	3%
10 DANDO	2	0	1	0	3	6	3%
Unknown/Outside City Limits	1	10	0	0	0	11	6%
Total Cases Received	74	31	26	15	32	178	100%
Cases Closed	30	8	26	15	32	111	

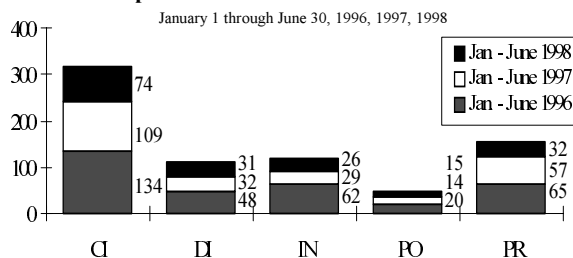
Formal: CI = Civilian-Initiated & DI = Department-Initiated,
IN = Informal, PO = Policy, PR = Procedural



THREE MIDYEAR ANALYSIS OF COMPLAINTS

The following chart presents a comparative three six-month study for 1996, 1997, and 1998 complaints. The total number of complaints received from January 1 through June 30, 1998, do not include the In-process complaints.

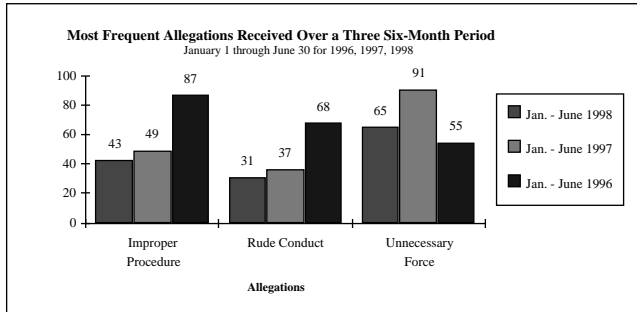
Classified Complaints Received in the Three Six-Month Periods



1998 Complaints = 178	1997 Complaints = 241	1996 Complaints = 329
Formal: CI=Civilian-Initiated & DI = Department-Initiated, IN = Informal, PO = Policy, PR = Procedural		

MOST FREQUENT ALLEGATIONS FILED

Unnecessary Force (UF), Improper Procedure (IP), and Rude Conduct (RC) allegations consistently yield the highest number of complaints. To compare these three types of allegations in the three six-month periods of 1998, 1997, and 1996, please refer to the following illustration.



Comparing the 1998 allegations to 1997 and 1996, both Improper Procedure allegations and the Rude Conduct allegations decreased, Unnecessary Force allegations decreased 29% from 1997 and increased 18% from 1996.

UNNECESSARY FORCE ANALYSIS

Type of Alleged UF	
Baton	10
Canines	3
Car (officer)	6
Car (complainant)	1
Chemical Agent	4
Feet	9
Ground	8
Hands	30
Handcuffs (tight)	7
Knee	4
Object	1
Other	4
Unknown	2
Total	89

Area Afflicted by Alleged UF	
Head	20
Torso	9
Limbs	15
MBP	9
Unknown	4
Total	57

Degree of Injury	
Major	11
Moderate	4
Minor	19
None	6
Unknown	4
Total	44

There were 105 Formal complaints received from January 1 through June 30, 1998; forty-three (43) were Unnecessary Force complaints, which produced 65 allegations. The illustration above presented the type of alleged force, the area afflicted by the alleged force, and the degree of injury. The total figures exceed the number of allegations received because there may be multiple types of alleged force or area of affliction associated with each complaint.

BLOOD SAMPLE TAKEN BY FORCE



Complaints alleging that blood samples were taken against a person's will, at a place not suited or appropriate for the safe and sanitary process, were a focus of the 1997 Year End Report. Complainants alleged that blood was drawn by a technician at the request of a police officer while the complainants were handcuffed, physically restrained or pinned to the ground outside the SJPD parking lot. Several of the people that came to the IPA or the PSCU to file a complaint had visible injuries to the area where the blood was drawn. This precipitated a closer review of existing SJPD policy and guidelines.

When a person is arrested for a suspected felony, San José police officers transport the arrestee to the Preprocessing Center located adjacent to the San José Police Department. At this center, the arrestee will generally be booked, fingerprinted, interviewed, and placed in a locked cell to await transfer to the county jail. This center has over ten individual holding cells which are monitored by police staff. If the arrestee is not combative, his/her blood will be drawn in one of these rooms. If the arrestee is violent or combative, the arresting officer is barred from bringing the suspect into the center. Reasons given to the IPA were that it is difficult to move the arrestee to and from the center, and because the arrestee can create a disturbance. Therefore, the blood sample from individuals deemed violent or combative was extracted in the parking lot of the Preprocessing Center, or the individual was taken directly to the county jail where the blood was drawn in what appeared to be a loading ramp and/or a parking lot for authorized personnel. It is an undisputed fact that when necessary, a handcuffed individual, would have been forced over the hood of a patrol car or held down by officers on the ground where a technician would extract the blood.

The courts have held that it is lawful to physically restrain an arrestee for the purpose of drawing a blood sample provided it poses virtually no risk, trauma or pain, and is performed in a reasonable manner by qualified medical personnel in a medically accepted environment. The police parking lot would not be deemed an appropriate medical environment. The SJPD and county jail parking lots are poorly lit, the ground is dirty, and equipment such as arm boards which reduce the risk of infection or injury to the subject's veins or tissue are not available. Risk of injury to the technician or officers is also increased whenever a subject is wrestled to the ground and restrained for the extraction of blood.

RECOMMENDATION

The IPA recommended that when taking blood specimens as evidence relevant to the crime at hand, the San José Police Department should do so in a medically accepted environment, according to accepted medical practices and without excessive force.

UPDATE

Blood is now drawn at a designated area within the Preprocessing Center which provides sanitary and well lit conditions for conducting the procedure safely.





RECOMMENDATIONS MADE BY THE IPA



The IPA formally and informally makes recommendations to the San José Police Department. The following chart highlights some of the issues and their related status.

ISSUES RAISED:	DISPOSITION:	CONCLUDED IN:
1993 Year End Report		
Create a new system for the classification of complaints	Adopted	1994 Year End Report
Apply Intervention Counseling to all complaints	Adopted	1994 Year End Report
1994 Year End Report		
Implement citizen "Onlooker Policy"	Adopted	1995 Year End Report
Contact complainants at regular intervals through updates and closing letters	Adopted	1994 Year End Report
Enact policy for collecting physical evidence in use of force cases and immediate investigation by supervisor	Adopted	1995 Year End Report
1995 Year End Report		
Review Off-Duty Employment Practices	Adopted	1997 Year End Report
1996 Year End Report		
Implement process for responding to citizen's request for officer identification	Pending	
Establish Class I and Class II of use of force categories (Class I cases within 180 days & all cases within 365 days)	Adopted	1996 Year End Report
1997 Year End Report		
When forcibly taking a blood specimen from an uncooperative suspect, do so in an accepted medical environment	Adopted	
Time limits and a reliable tracking system should be set for every bureau and department involved with the complaint process	Pending	

To file a complaint against
a SJPD officer, contact:

The Office of the Independent Police Auditor

4 N. Second St., Ste. 650

San José, CA 95113

Tel (408) 977-0652

Fax (408) 977-1053

email: Ind_Pol_Aud@ci.sj.ca.us

or visit our website at:

<http://www.ci.san-jose.ca.us/ipa/home.html>

or

The Professional Standards & Conduct Unit

777 N. First St., Ste. 666

San José, CA 95112

Tel (408) 277-4094

IPA STAFF

Teresa Guerrero-Daley, Police Auditor

Pablo Castro, Assistant Auditor

José Manuel Cuéllar, Complaint Analyst

Leanne Wang, Complaint Analyst

We welcome your comments
regarding this newsletter!



*Office of the Independent Police Auditor
City of San José*

*4 N. Second Street, Suite 650
San José, CA 95113*

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